



D- BLM-K60105-CA
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

June 2, 1997

Ed Hastey, State Director
Bureau of Land Management
2135 Butano Drive
Sacramento, California 95825

Dear Mr. Hastey:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the Army's Land Acquisition Project for the National Training Center (NTC), Fort Irwin, and Proposed Amendment to the California Desert Conservation Area Plan. The Bureau of Land Management (BLM) is lead Federal agency for the DEIS; the Army and the Air Force are cooperating agencies on the document. Our comments on the DEIS are provided pursuant to the National Environmental Policy Act (NEPA), Section 309 of the Clean Air Act, and the Council on Environmental Quality's Regulations for Implementing NEPA (40 CFR 1500-1508). EPA provided written scoping comments on the Notice of Intent to BLM's Barstow office on September 23, 1988 and information on the NTC's permits and compliance status to the EIS consultant (Brandman Associates) on November 4, 1988.

The DEIS addresses the proposed withdrawal of approximately 310,296 acres of public lands from entry under public lands laws to support the training mission of the Army's NTC at Fort Irwin. The public lands are currently managed by the BLM. Approximately 20,921 acres of intermingled state and private lands would be acquired. Withdrawn and acquired lands would be for exclusive military use for force-on-force training of armored and mechanized brigades. The DEIS assesses in detail six action alternatives, including the Proposed Action, as well as No Action. A variety of other action alternatives were eliminated from detailed consideration.

We have rated the DEIS as Category EC-2, Environmental Concerns - Insufficient Information. The following concerns form the basis for our rating:

1) The DEIS indicates that an additional 222,000 net maneuverable acres are needed to carry out the NTC's training mission. However, four action alternatives analyzed in detail exceed the 222,000-acre minimum figure. The Proposed Action would secure

AD-301025-CA
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
277,244 net maneuverable acres, substantially exceeding the minimum acreage necessary to carry out the NTC's training mission. No rationale is provided as to why this much acreage is needed. We are seriously concerned that more acreage (+55,000 acres) may be subjected to potential environmental degradation than may be necessary to carry out the defense mission, as articulated in the Purpose and Need section. Clarification is needed.

2) Regarding water quality, the DEIS refers to various activities that have adverse effects on water resources, which may include increased erosion and sedimentation and an increased risk of hydrocarbon spills. However, there is no discussion regarding the Proposed Action's consistency with various provisions of the Federal Water Pollution Control Act (Clean Water Act), including consistency with the applicable Water Quality Control Plan. The Final Environmental Impact Statement (FEIS) and the Record of Decision should discuss this in greater detail.

3) Regarding solid waste and hazardous substances, Table ES-3 indicates that no significant impacts are expected, thus no Army environmental commitments are required. We believe that opportunities may be available to reduce the amount of hazardous materials and hazardous waste associated with military operations, which would also reduce the potential for accidental spills and environmental degradation. Similarly, no mention is made of the potential to recycle solid wastes associated with Fort Irwin operations, nor are mitigation measures provided. The FEIS and the Record of Decision should discuss these issues.

4) The EIS states that the Army's environmental commitments (mitigation measures) are "subject to availability of NTC funding." The FEIS should inform agencies and the public the likelihood that the environmental commitments would or would not be carried out, in particular environmental commitments which depend on adequate funding levels.

5) The DEIS does not reflect consistency with Executive Order 13007 on protecting Indian Sacred Sites. The FEIS should identify how BLM and/or the Army would ensure that this Executive Order is carried out.

Please refer to our detailed comments (attached) for an in-depth discussion of each of these concerns, and to our "Summary of Rating Definitions and Follow-Up Action" for a detailed explanation of our rating system.

We appreciate the opportunity to comment. Please send one copy of the FEIS to me at the letterhead address (mailcode: CMD-2) when it is filed with EPA's Washington, D.C. office.

If you have any questions, my staff contact on this EIS review is
David Tomsovic at 415-744-1575.

Sincerely,



David Farrel, Chief
Federal Activities Office

Attachments: 2

- 1) Summary of Rating Definitions and Follow-Up Action
- 2) Detailed EPA comments on the DEIS

M.I. 000561

cc: Patricia Port, DOI, San Francisco, CA
NTC Project Manager, BLM, Barstow, CA
Ray Bransfield, FWS, Ventura, CA
Jack Mills, BLM, Sacramento, CA

SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION

Environmental Impact of the Action

LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommend for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From: EPA Manual 1640. "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

EPA's Detailed Comments on Land Acquisition for National Training Center, Fort Irwin, California.

Project Purpose & Need - Land Acreage Proposed for Acquisition

The DEIS indicates that the purpose of the Proposed Action is to provide a sufficient area to support the Army's National Training Center (NTC). The DEIS states that the lands currently available to the NTC are not "adequate" to realistically support the NTC's training of brigade-sized units. According to a 1993 Land Use Requirements Study (LURS), the Army requires an additional 222,000 acres of "net maneuverable area" at the NTC (a previous LURS completed in 1985 indicated a need for an additional 238,000 net maneuverable acres). "Net maneuverable area" is defined as an area with 20-percent or less slope. The DEIS addressed in detail six action alternatives, including the Proposed Action. The total acreage proposed for acquisition and the net maneuverable acreage for the six action alternatives analyzed in the DEIS are:

Alternative Assessed in Detail	Total Acres to be Acquired	Amount of Maneuverable Acres Available to NTC
Silurian Valley (Proposed Action)	331,217	277,244
Modified Avawatz-Silurian	270,030	226,793
Modified Coyote Basin	259,470	236,175
Alvord	210,800	190,727
Superior Valley	284,885	264,776
Avawatz	185,500	170,401

Two action alternatives assessed in detail in the DEIS (i.e., Alvord Alternative and Avawatz Alternative) contain significantly less net maneuverable area than the 222,000 net maneuverable acres recommended by the 1993 LURS. Based upon the net maneuverable acreage available under the Alvord and Avawatz Alternatives, we question whether these two alternatives would satisfy the purpose and need statement as defined in the DEIS. This should be discussed in the Final Environmental Impact Statement (FEIS).

Three of the action alternatives contain more net maneuverable acreage than is identified as minimally necessary by the 1993 LURS. The environmental impacts associated with the use of these

lands for military training is of concern. In particular, the Proposed Action would acquire 55,244 more net maneuverable acres than the 1993 LURS suggests is the minimum amount necessary. The Superior Valley Alternative would acquire 42,776 more net maneuverable acres than the 222,000 acres defined in the 1993 LURS.

The DEIS details the environmental impacts projected to occur with land acquisition and subsequent military training. For the Proposed Action, such impacts include increased soil disturbance and erosion due to military vehicles, a potential impact on 2,470 acres of dry lakebeds, vehicle operation in natural drainage systems, potential impacts on springs and other water resources, the loss of 2,845 acres of Joshua tree woodland, and potential impacts on one Federal Species of Concern and several sensitive species. Such impacts are summarized in Table ES-1.

Presumably, many of the adverse impacts identified in the DEIS could be minimized or avoided if the final NEPA action were to more closely correlate to the acreage figure identified in the 1993 LURS (i.e., 222,000 net maneuverable acres). In particular, we recommend that BLM and the Army determine whether environmentally significant resources might be more adequately protected by reducing the 277,244 net maneuverable acres listed under the Proposed Action. If the Army believes that the 1993 LURS is in need of amendment, and that more than 222,000 net maneuverable acres is needed, this should be so stated in the FEIS.

Water Quality Protection

Table ES-3 lists various Army environmental commitments that would be adopted to protect water resources and biological resources (such commitments being subject to funding availability). Commitments include restricting access to the Salt Creek riparian area, Sheep Creek, Owl Hole Spring and the Amargosa River's tributaries; and having field personnel avoid springs and riparian areas. Nonetheless, the DEIS (p. 4-17) indicates that adverse impacts to water resources can be expected to occur under the Proposed Action, due to the alteration of natural drainage patterns by tank and tracked vehicle operations. One consequence of tank and vehicle operations would be increased erosion and sedimentation. Table 4.3-3 notes that under the Proposed Action, there would be a "significant increase in soil erosion" as well as potentially significant impacts to 2,470 acres of dry lakebeds. Page 4-178 discusses the spills of oil, grease, lubricants and other pollutants, which may either spill directly into water resources or be washed into water resources.

We believe that such adverse impacts to water resources (increased erosion and sedimentation, increased risk of spills) are inconsistent with the policy goals of the Federal Water

Pollution Control Act (FWPCA), more commonly known as the Clean Water Act (CWA). Section 101 of the FWPCA indicates that the purpose of the FWPCA is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." In furtherance of the policy goals of Section 101 of the FWPCA, EPA and the States, including California, have undertaken considerable efforts to protect the nation's waters from point source and nonpoint source pollutant discharges.

By virtue of Section 313 of the FWPCA, any Federal agency having jurisdiction over any property or facility, or engaged in "any activity" that may result in the discharge or runoff of pollutants, is required to comply with the various Federal, State and local requirements regarding water pollution control to the same extent as any private party. One means to protect and maintain the quality of the nation's waters is through the development of water pollution control plans, known as "Water Quality Control Plans" or "Basin Plans." In California, the various Water Quality Control Plans establish limits on a variety of water pollutants, including oil and grease, toxicity, turbidity, and pesticides.

There is no discussion in the DEIS as to whether the Proposed Action is consistent with the applicable requirements of the Water Quality Control Plan. The FEIS should discuss whether the Proposed Action would be in accord with this Plan and indicate whether project-related water pollutants would adversely affect existing or potential beneficial uses in the project area. We recommend that the BLM and/or the Army contact the Regional Water Quality Control Board to ensure the project's consistency with the Plan's requirements. Appropriate commitments to protect water quality and beneficial uses should be included in the FEIS and the Record of Decision.

Hazardous Substances, Hazardous Materials & Hazardous Waste

The DEIS(p. 4-178) indicates that hazardous substance impacts associated with military training exercises "will include" spills of oil, grease, lubricants, hydraulic fluids, battery electrolytes and fuels from vehicle refueling, equipment breakage and field repairs. However, there is no discussion regarding other hazardous materials and hazardous waste that may be associated with daily NTC operations, e.g., the use of solvents in cleaning and degreasing operations and the use of paint, thinners, aerosol paint cans and other materials. The DEIS refers to Army policies and procedures to minimize the potential for such releases and to minimize environmental damage.

We are concerned that the DEIS contains no reference to hazardous materials and hazardous waste outside the military training areas, i.e., at existing NTC vehicle maintenance areas, waste storage areas, etc. Also, we are very concerned that the DEIS

has no discussion of whether the NTC may have policies in place to reduce the amount of hazardous materials in use, which in turn would reduce the potential for spills and reduce the amount of hazardous waste requiring proper management under the Resource Conservation and Recovery Act (RCRA) and the State's hazardous waste laws. As you know, the Council on Environmental Quality recommended that Federal agencies include appropriate pollution prevention measures in agency NEPA documents (refer to CEQ's memorandum in the January 29, 1993 Federal Register at pp. 6478-6481).

We believe that significant opportunities may exist to reduce the amount of hazardous materials and hazardous waste associated with NTC training exercises, a subject which should be further discussed in the FEIS. The FEIS should discuss what policies the Army or the NTC may have in place to reduce the impacts associated with hazardous materials and hydrocarbon products, e.g., better inventory control ("use only as much as needed"). Other pollution prevention opportunities may include:

- * Segregating different waste streams to enhance their recycling potential,
- * Recycling used oil,
- * Changing to aqueous degreasers,
- * Reducing the number of degreasers used,
- * Preventing solvents from entering wastewater streams,
- * Replacing oil-based paint with water-based paints,
- * Establishing rigid inventory controls to reduce the use of paint thinners and other hazardous materials,
- * Extending the life of paint thinners through settling or filtering,
- * Mixing paints according to need,
- * Adjusting paint application methods to minimize excess paint, especially spray paint operations,
- * Reducing or eliminating the use of spray paint cans,
- * Recycling discarded batteries,
- * Using higher-quality oil to reduce frequency of oil changes, and
- * Investigating replacements for solvents.

We believe that the FEIS and the Record of Decision should identify existing pollution prevention efforts at the NTC, pollution prevention opportunities that may still be available at the NTC, and appropriate commitments regarding pollution prevention at the NTC.

Additionally, we disagree with the rationale of the statement on page 4-178 that "...because the same amount of equipment and personnel will be used over a larger area, the concentration of potential spills will be less." Although the concentration of spills may be less, in fact more adverse consequences are likely if more areas are subjected to spills. For example, more water

resources and sensitive natural resources would be subjected to potential environmental contamination in the event of spills. Although the concentration may be less, more environmental resources are actually at risk. We believe that this statement on page 4-178 should be amended or deleted from the text of the FEIS. If the sentence is retained, the FEIS text should note that by extending the range of potential spills, more resources are potentially at risk.

Solid Waste Recycling

The DEIS does not indicate the solid waste recycling efforts that may currently be in place at the NTC (for a variety of recyclable materials such as glass, tires, cardboard, white and mixed paper, cardboard, plastics, aluminum, construction debris, etc.). We strongly recommend that the FEIS discuss the current solid waste recycling efforts at the NTC and what recycling efforts will be integrated into the Proposed Action. Appropriate commitments on solid waste recycling should be included in the Record of Decision.

Mitigation for Solid Waste and Hazardous Substances

In terms of solid waste and hazardous substances, Table ES-3 indicates that "no significant impacts are expected," and thus no environmental commitments are provided in the document. We recommend that Table ES-3 be modified to read: "a comprehensive program to minimize the use of hazardous materials and to reduce the amount of solid waste and hazardous waste shall be an integral component of the Proposed Action, to the extent such a program is in accord with military requirements."

Army Environmental Commitments

Table ES-3 details the Army's environmental commitments as part of the Proposed Action. These "environmental commitments" are basically mitigation measures as that term is defined by the Council on Environmental Quality. However, page ES-26 indicates that the environmental commitments are "subject to the availability of NTC funding." Although we recognize that a number of environmental commitments are not dependent on funding (e.g., field personnel shall avoid springs and riparian areas; hunting and fishing not allowed in acquisition areas), other environmental commitments are obviously dependent upon adequate, in some cases continuing funding. For example, funding may be necessary to install fencing and other measures to protect water resources. The installation of desert tortoise-proof fencing and the various dust control measures listed in Table ES-3 also may require funding.

The CEQ addressed the question of mitigation measures that are unlikely to be adopted by the responsible agency (refer to

Question 19b, Questions and Answers about the NEPA Regulations, CEQ, March 16, 1981). In its answer to Question 19b, the CEQ informs Federal agencies that in order to ensure that environmental effects of a proposed action are fairly assessed, the probability of the mitigation measures being implemented must also be discussed, specifically "...the EIS and the Record of Decision should indicate the likelihood that such measures will be adopted...by the responsible agencies." The CEQ indicates in 19b that "If the necessary mitigation measures will not be ready for a long period of time, this fact...should also be recognized."

We recommend that the FEIS and the Record of Decision clearly portray for agencies and the public what mitigation measures are dependent on funding and what mitigation measures will be implemented irrespective of the availability of adequate funding.

Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements - Executive Order 12856

The DEIS does not indicate whether BLM or the Army have considered the applicability of this Executive Order to ongoing activities at the NTC or to the Proposed Action. Executive Order 12856 requires that Federal agencies conduct their facility management and acquisition activities so that, to the maximum extent practicable, the quantity of toxic chemicals entering any wastestream, including any releases to the environment, is reduced as expeditiously as possible through source reduction; that waste that is generated is recycled to the maximum extent practicable; and that any remaining wastes are stored, treated or disposed of in a manner protective of public health and the environment.

Energy Efficiency and Water Conservation at Federal Facilities - Executive Order 12902

The DEIS does not indicate whether new facility construction or reconstruction of existing military facilities is a reasonably foreseeable impact under the Proposed Action. If new facility construction is proposed, the FEIS should reference the need to ensure compliance with Executive Order 12902, Energy Efficiency and Water Conservation at Federal Facilities (March 10, 1994 Federal Register, pp. 11463-11471).

Federal Insecticide, Fungicide and Rodenticide Act

Table 8.1-1 provides useful information to agencies and the public on the various requirements applicable for ongoing NTC activities. However, there is no mention in the DEIS about whether pesticides or herbicides are used at the NTC (e.g., to control vectors, manage vegetation, etc.). The FEIS should indicate whether pesticides or herbicides are used at the NTC.

If so, the use of pesticides and herbicides is subject to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and EPA's FIFRA rules. If FIFRA-regulated materials are used at the NTC, FIFRA compliance should be identified in Table 8.1-1 (Compliance with Environmental Laws and Regulations).

Indian Sacred Sites - Executive Order 13007

Although no Indian Reservation lands are located within the study area, the DEIS (p. 3-74) discusses the importance of the Mojave River area as an important ethnographic area for the Serrano, Vanyume, Chemehuevi/Paiute and Mojave groups in terms of traditional use and religious sensitivity. The DEIS acknowledges the American Indian Religious Freedom Act, in particular the right of Native Americans to have access to sites, use and protection of sacred objects and their freedom to worship. However, the DEIS does not discuss the applicability of a recent Executive Order regarding Indian Sacred Sites (Executive Order 13007, May 24, 1996). Executive Order 13007 provides that in managing Federal lands, each executive branch agency with responsibility for managing Federal lands shall, to the extent practicable, accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and avoid adversely affecting the physical integrity of Indian sacred sites. The Executive Order defines "Federal land" as any land owned by the United States except Indian trust land.

We recommend that, prior to finalizing the FEIS, BLM or the Army contact appropriate tribal authorities to determine whether the proposed action may adversely affect such sacred sites on land owned by the United States. Additionally, other tribes in the area may also have concerns, recommendations or information to offer, as envisioned by Executive Order 13007. Appropriate commitments regarding the proposed action's consistency with Executive Order 13007 should be reflected in the FEIS and the Record of Decision. Lastly, we suggest that BLM or the Army determine whether Indian sacred sites may also be on State, local or private lands proposed for acquisition, once a final land acquisition alternative is selected. The FEIS should recognize that lands currently under State, local or private ownership would come under the purview of Executive Order 13007 when and if these lands are acquired by the United States Government as part of Fort Irwin's expansion.

Editorial Comment

The DEIS cover page indicates that the Army and the Air Force are cooperating agencies on the EIS, however, the cover page does not provide contact names and phone numbers at the Army or the Air Force. We recommend that such information be provided on the cover page of the FEIS. Also, the FEIS cover page should provide a phone number for BLM's NTC land acquisition project manager.

